A

BRIEF HISTORY OF THE SUCCESSION OF THE CROWN OF ENGLAND, &c.

Collected

Out of the Records, and the moſt Authentick Hiſtorians.

Written for the Satisfaction of the NATION.

LONDON,

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MEN generally, at preſent, buſy themſelves in diſcourſing about the Succeſſion, and therefore cannot but be pleaſed to have a ſhort Hiſtory of it ſet before them: For by ſeeing how the Crown has deſcended, and in what manner, and upon what grounds the natural Courſe of the Deſcent hath been changed, they will be enabled to judge what has been the Opinion of all Ages, in this ſo controverted a Point, and thereby may ſafely direct their Own.

Cæſ. de Bell. Gall. lib. 5. *Tacitus* in vita *Jul.* Agricolæ *Strab.* lib. 4.

Nothing certain has come down to us of the Nature of the Government of this Iſland before the *Romans* came hither; only this we learn from *Cæſar*, and *Strabo*, and *Tacitus*, That the *Brittains* were ſubject to many Princes and States, not confederate, nor conſulting in common, but always ſuſpecting, and frequently warring with one another.

(a) Pol. *Virg.* Hiſt. Angl. l. 4. in fine *Will. Malmeſ.* l. 1. c. 2. f. 16. l. 2. c. 1. fol. 36.

During the *Heptarchy*, whilſt every Kingdom was govern'd by different Laws, we cannot think they agreed in one Rule of Succeſſion: But, if that does not, I am ſure, the reading the many Changes and Confuſions of thoſe Times muſt convince any man, that their Rule was uncertain, or elſe that they had no Rule at all.

(b) *Hen. Hunt.* l. 5. fol. 348. *Will. Malmeſ.* lib. 2. c. 3. f. 41. (c) *Will. Malmeſ.* l. 2. c. 6. f. 48.

Thoſe ſeven Kingdoms were at laſt united under *Egbert*: But yet our Hiſtorians who lived neareſt thoſe Times, expreſt themſelves ſo odly in this Matter, and do ſo conſtantly mention the Election of almoſt every King before they tell us of his Coronation, that ſome learned men have doubted, whether before the Conqueſt the Government of this Iſland was ever grown up into a ſettled Hereditary Monarchy. Surely if it were ſo, yet all muſt agree, that (*a*) then the Succeſſion was not guided by the ſame Rules, as ſome men believe or pretend it ought now to be. *Egbert* himſelf, the firſt *Engliſh* Monarch, came to the Crown, not by Succeſſion but Election, being no way related to *Briſſienus*, the laſt of the *Weſt-Saxon* Kings; and when he died, he gave the Kingdoms of *Kent* and *Eſſex* to his ſecond Son. (*b*) *Ethelwolf* divided the whole Iſland between his two Sons *Ethelbald* and *Ethelbert*. (*c*) *Athelſtan* (though a Baſtard) ſucceeded his Father, and was preferred to his ligitimate Brothers. (*d*) *Edred*, the younger Brother of King *Edmond*, was advanced to the Throne, though the deceaſed Prince had two Sons, *Edwin* and *Edgar*, who did both of them reign afterward ſucceſſively. *Edgar* left a Son at his Death; but yet there hapned a mighty Conteſt about his Succeſſor, (*e*) ſome of the great men contending for the Election of *Egelred* his Brother. But at laſt the Intereſt of

(a) *Will. Malmeſ.* l. 2. c. 6. f. 55. *Rog. Hoved.* par. 1. f. 423. *Hen. Hunt.* l. 5. f. 355.

(*e*) De Rege Eligendo magna inter Regni Primores oborta eſt diſſentio *Simeon Dunelm.* an. 975. f. 160. Edwardum *Elegerunt Electum conſecraverunt, & in Regem unxerunt* Sim. Dunelm. ubi ſupra.

of *Edward* the Son prevail'd, and he was in a full Aſſembly elected, conſecrated and anointed King. That which *Ailredus*, Abbot of *Rievallis*, in his Life of *Edward* the Confeſſor, gives an account of, ſeems very remarkable to our purpoſe. King *Ethelred* (*f*) (who was no tame and eaſie Prince) deſirous to eſtabliſh his Succeſſor in his Life-time, (*g*) ſummoned a great Council expreſly for that purpoſe, and propoſes the thing to them. The Council were divided, ſome of them appearing for *Edmond* his eldeſt Son, and ſome for *Alfred* his ſecond Son by Queen *Emma*. But at laſt, upon ſome ſuperſtitious Fancy, they agreed to paſs by both of them, and elected the Infant that was in the Queens Womb. To which Election the King gave his (*h*) Royal Aſſent, and the whole Aſſembly ſwore Fealty to the Child whilſt yet unborn. Undoubtedly this Story makes it plain, that it was not enough at that time to entitle one to the Crown, that he was the Kings Eldeſt Son, for then *Ethelred* would never have ſuffer'd a Debate about the Election of a Succeſſor, nor ſummon'd a Parliament expreſly for that purpoſe, which you ſee he thought neceſſary to be done. And notwithſtanding all his care, it ſeems upon the Death of *Ethelred*, *Canutus* had ſo great an Intereſt, that by an unanimous conſent in a full (*a*) Counſel he was elected King, and all the Iſſue of the laſt Prince rejected. 'Tis true, the *Londoners* ſtood firm to *Edmond* Ironſide, (the approbation of that renowned City had then no little Influence on the Succeſſion) and there were divers Battels fought between them; but at laſt they came to an Agreement, and *Edmond* dying, the *Dane* ruled the whole Iſland peaceably whilſt he lived.

(*f*) *Glorioſus Rex* Ethelridus Ailred Reivalis, *fol.* 372.

(*g*) *Fit magnus coram Rege Epiſcoporum Conventus.* Reival. *ubi ſupra.*

(*h*) *Præbet Electioni Rex conſenſum.* Ailr. *Ab.* Reival. *ubi ſupra.*

(*a*) *Epiſcopi, Abbates, Duces Quique nobiliores* Angliæ *in unum congregati pari conſenſu Canutum in Dominum & Regem Eligere omnem progeniem Regis* Ethelredi *repudiantes.* Sim. Dunelm *an.* 1016. *f.* 173. Brompt *f.* 903 Rog. Hovedon 1 par. f. 434.

Immediately upon the Death of *Canutus*, there was aſſembled at *Oxford* (*b*) a great Council to determine who ought to ſucceed; where, notwithſtanding all the Intereſt which *Godwin* Earl of *Kent*, and the *Weſt Saxon* great men, could make on the behalf of *Hardiknute*, the legitimate Son of the dead King, they were over-voted, and *Harald Harefoot* (his Baſtard, begotten on *Ailena* or *Elgiva*) was elected. *Harald* dy'd in the 5th year of his Reign, and (*c*) then the People were content to accept of *Hardiknute* for their King, and to that end ſent for him out of *Flanders*; but he dying Iſſueleſs, it was ordained in a (*d*) General Council, that never any *Dane* ſhould for the future be admitted to Reign in *England*. After which they proceeded to elect *Alfred*, the Son of *Ethelred*, and he being murder'd by the Treachery of Earl *Godwin*, they choſe his Brother *Edward*, commonly called *Edward the Confeſſor*. Nor were theſe Elections of theirs made with any reſpect to nearneſs of Blood, more than thoſe whereof we have heard before; for *Edmond Ironſide*, their Elder Brother, had a Son then alive, (*e*) whoſe name was *Edward*, and who was Father to *Edgar Atheling*, living alſo at the ſame time. And though this *Edward* had an undoubted Title to the Crown, if proximity of Blood could have given it, yet the *Confeſſor* was ſo far from ſuſpecting any danger from ſuch a Title, as that he invited his Nephew into *England*, and welcom'd him when he came, with the greateſt expreſſions of Joy, and entertain'd him with the greateſt Confidence. Nor had the People any regard to this Royal Blood upon the Death of the *Confeſſor*, but elected *Harald*, the Son of Earl *Godwin*, who had no pretence of Kindred to the *Saxon* Line.

(*b*) *Placitum magnum de Regni Succeſſione apud* Oxonium *factum eſt* Brompt. 932. *Canuto mortuo facta eſt apud* Oxonium *magna alteratio de Regni Succeſſione* Hen. Knyght *de event.* Angl. Hen. Hunt. l. 6. f. 364.

(*c*) *Poſt mortem* Heraldi Hardeknute *Electus Rex.* Hen. Hunt l. 6. f. 365.

(*d*) *Omnes* Anglorum *magnates ad invicem tractantes de communi Concilio & Juramento ſtatuerunt, quod nunquam temporibus futuris aliquis Dacus ſuper eos in Angliâ regnaret.* Brompt 934.

(*e*) Brompt 945.

Theſe few, among many other Inſtances which may be given, will ſhew plainly enough, how men entituled themſelves to the Crown in thoſe days, and that then it was no ſtrange thing to hear of a Parliaments medling with the Succeſſion. Therefore I ſuppoſe, the men who ſeem aſtoniſhed at the boldneſs of a Parliament, in preſuming to ſpeak of it at this time, will ſay, that they ought not to be troubled with Preſidents before the *Norman* Conqueſt; and that though the *Saxons* might

might be guilty of preferring a brave and deserving *Bastard*, before a *cruel* or a *silly legitimate* Prince, and of many other Irregularities, yet no such things are to be found in our Histories since the time of *William* the first, whose Reign is the great *Epoche*, from whence we do compute our Kings. Let us therefore go on more particularly to observe what has been done since that time, and we shall see whether they who wonder so much, have any reason to do so.

William the *Conquerour* was himself illegitimate, and yet succeeded his Father in the Dutchy of *Normandy*, and therefore had no reason to set any great value upon that sort of Title, which is derived from a Right of Bloud. And it seems he did not much regard it; for passing by *Robert* his eldest, he gave the Crown (*a*) by his last Will, to *William Rufus* his younger Son, disposing only with regard to his own Inclinations, the Crown which himself had gain'd.

(*a*) *A patre ultima valetudine decumbente in Successorem adoptatus.* *Guil. Malmesb.* lib 4. fol. 120. *Sim. Dunel.* anno 1087. fol. 213. *Brompt.* 980.

But his Son was too wise to rely upon this Disposition as a sufficient Title, and therefore had recourse to a more sure one: (*b*) For, calling together the Nobles and wise Men of the Kingdom, he acquainted them in a full Council, with his Fathers Will, and desired their Consent to it; who after a long Consultation, did at last unanimously agree to make him their King, and thereupon he was Crown'd by *Lanfranck* Archbishop of *Canterbury*. I cannot but observe one thing farther, that though some men make use of the absolute Victory which the *Conquerour* had made, and affirm, that thereby the *English* were wholly broken, and all the old Laws and Customs of the Realm were destroy'd, yet it is plain that at this time the *English* Interest was so great, that it kept the Crown upon *William Rufus*'s Head, in spight of all that the *Normans* could do in behalf of *Robert*, though they universally joyn'd with him. (*c*) For the King calling together the *English*, and opening to them the Treason of the *Normans*, and (*d*) promising them a compleat Restitution of their ancient Laws, they stood firm to him, and soon put an end to all the Attempts of his Brother, and his *Norman* Accomplices.

(*b*) *Convocatis terræ magnatibus.* Brompt. 983. *Optimates frequentes ad* Westmonasterium *in Concilium convenere, ubi loci post longam Consultationem* Guilielmum Rufum *Regem fecere.* Mat. Paris, *Flores hist. fol.* 231. *Volentibus omnium Provincialium animis in Regem acceptus.* Mat. Paris *in vit.* Guil. 2. *fol.* 14. *anno* 1088. (*c*) *Rex fecit convocare Anglos.* Sim. Dunelm. *an.* 1088. *fol.* 214. (*d*) *Angli cum fideliter juvabant*, &c. Sim. Dun. *ubi supra.*

Upon the Death of *William Rufus*, *Robert* had a fair pretence to renew his Claim to the Crown, (*a*) but that Prince had discover'd too much of the *Cruelty of his Disposition, of his aversion to the* English *Nation, and of his proneness to Revenge*; so that by the full Consent and Counsel of the whole Body of the Realm, assembled at *Winchester*, he was finally rejected, and they did concur to elect the *Conqueror*'s third Son *Henry* for their King, (as *Mat. Westminster* expresses it.) Nor did they do this but upon Terms; for both the Clergy and Laity said, that if he would restore them their ancient Liberties, and confirm them by his Charter, and abrogate some severe Laws which his Father had made, *they would consent to make him King.* And this prudent and learned King was not ashamed or unwilling to own this Title; for he does at large recite it in his Charter whereby he confirms their Liberties, (*b*) *Sciatis me misericordia Dei, & communi consilio Baronum Regni Anglia, ejusdem Regni Regem Coronatum esse*, &c.

(*a*) *Hic* Robertus *semper contrarius & adeo innaturalis extiterat Baronibus Regni Angliæ, quod plenario consensu, & consilio totius Communitatis Regni, ipsum refutaverunt, & pro Rege omnino recusaverunt, &* Henricum *fratrem in Regem erexerunt*, H. de Knyght. c. 8. 2374. *Post mortem* Willielmi Rufi *electus est* Henricus *frater ejus* Mat. Paris 55. *in vita* H. 1. *an.* 1100. *& 62. anno* 1105. Mat. West. 235. *Apud* Winton. *in Regem electus est.* Brompt. 997. (*b*) *Rich. Hagulstad* 310. *Brompt.* 10. 21. *Mat. Paris* 240.

Henry the first you see had reason to believe and own the Power of the Kingdom, in setting the Crown upon what head they pleased, and therefore he desired to secure it that way to his Posterity. To that end, in the 13*th* year of his Reign, (*c*) he summon'd a Council, and procured all the great and powerful

(*c*) *Coacto Concilio fecit omnes Principes & Potentes Anglicani Regni adjurare terram & Regnum* Willielmo *filio suo*, &c. Gervas Chron. 1138.

erful men of the Kingdom to swear that his Son *William* should succeed him: But afterwards this Son of his was unfortunately drown'd, and the King dy'd, leaving no other Issue but *Maud* his Daughter, who had been married to the Emperour, and afterward to *Geoffery Plantaginet*, Earl of *Anjou*. No dispute can be made, but that she had all the Right which proximity of Bloud could give; yet *Stephen*, Earl of *Boloign*, who was the Son of *Adela*, one of the *Conquerors* Daughters, and whose elder Brother *Theobald*, Earl of *Blois*, was then living, stept in before her, and by representing to them the Inconvenience of a Feminine Government, and promising them to consent to such good and gentle Laws as they should devise, prevail'd (*d*) with the Estates of the Realm to elect him King. And in this Charter, which he made soon after, he owns this Title, beginning it thus, *Ego* Stephanus *Dei gratia, assensu Cleri & Populi in Regem Angliæ electus*, &c. And the *Pope*, in his Charter of Confirmation, sent to him in the first year of his Reign, tells him, That he was, *Communi voto & unanimi assensu tam Procerum quam etiam Populi, in Regem electus*. And then he adds, That since so universal an Assent could not be directed but by the Divine Grace, he therefore allows his Title, and confirms him in the Kingdom.

(*d*) *A primoribus Regni cum favore Cleri & populi Electus est à* Will. Cant. *Archiepiscopo in Regem Consecratur.* R. Hagulstad. an. 1156. fol. 312. *Consentientibus in ejus promotionem* Willielmo Cantuariensis *Archiepiscopo & Clericorum, & Laicorum universitate apud* Lond. Jo. Hagulstad 250. *Prædictus* Stephanus *à cunctis in Regem Electus*, Gervas Chron. f. 340. *Congregatis* Londiniis *terræ magnatibus*, Mat. Paris 74.

'Tis true that afterwards *Maud* the Empress, together with her Son *Henry*, having after some years, gained many to their side, gave him great disturbance; till at last *Stephen* having lost his Eldest Son *Eustace* (in whom he placed his hopes (*e*) and used all means, whilst he liv'd, to have got him declared his Successor, but without Success) came to an Agreement with the Empress and her Son, and (*a*) the Parliament, (who alone could give a Sanction to such Agreement,) was assembled at *Winchester* to confirm it; and then *Stephen* publickly Adopts *Henry* for his Son, and with their full consent declares him his Heir; and with the same consent *Henry* gives *Stephen* the name of Father, and agrees that he should continue to be King, during his Life, and they all Swore, That if *Henry* surviv'd, he should without opposition obtain the Crown, and *Stephen* by his Charter, which is set down at large in *Brompton* publishes this Agreement, *Brompt.* 1037.

(*e*) Hen. Hunt. l. 8. f. 395 R. Hag. de gestis Steph. 314. (*a*) *Facto* Wintoniæ *conventu publico, Rex* Stephanus *ipsum Ducem cunctis videntibus adoptavit in Filium, atque interposito omnium Juramento concessit & confirmavit ei totius* Angliæ *principatum, Dux autem suscepit eum in locum genitoris, contendens ei omnibus diebus vitæ suæ nomen & rem Regii culminis obtinere*, Gervas. f. 1375. *In conventu Episcoporum & aliorum de Regno optum* Mat. Westm. f. 246. *an.* 1153. & 282. *an.* 1154. *Consenserunt in hoc omnes principes Regni.* Jo. Hagulstad. f. 282. Mat. Paris 86. Hen. Hunt. l. 8. f. 398. Jo. Hagulstad. 282. anno 1154.

In all this Transaction certainly there was no consideration had of any other Right, but that which universal consent conferred; For if *Stephen*'s *Heir* had any pretence, he had a Son then living, whose Name was *William*, and who by the same Agreement was to have all the Possessions which his Father enjoyed before he was made King. If the *Heir* of *Henry* the first had any Title, that was vested in *Maud* the Empress, who was then also living; so that neither of the parties had any other colour of Right to the Crown, than what the consent of the People gave them.

According to this Parliamentary Agreement and Limitation, *Stephen* enjoy'd the Crown peaceably during his Life, and after his Death *Henry* the *Second* came to it as peaceably; but he remembred by what Title, and therefore was desirous to secure it to his Son in the same manner, that he took a very dangerous and unusual way to do it. (*b*) For Summoning a Parliament to meet at *London*, he procures his Son *Henry* to be declared King together with himself, by their consent, and thereupon he was Crowned by the Archbishop of *York*, and Fealty Sworn to him by all. This was the occasion of Civil Wars between

(*b*) *Convenerunt interim die statuto ex mandato Regis* Londonium *totius* Angliæ *Episcopi, Abbates, Comites, Barones, Vicecomites Prepositi, Aldermanii cum fidejussoribus*, Gervas, H. 2. f. 1412.

between them, for the Father meant hereby only to have secured the Succession to him, and the Son was impatient of having only the bare Title of a King, all along pretending to an Equal Authority, as doth sufficiently appear by what he writes to the Prior and Convent of *Canterbury*, where he takes notice, That his Father did attempt some Invasions upon them, which he ought not to have done without his assent. (c) *Qui, ratione Regiæ unctionis, Regnum, & totius Regni curam suscepimus*, and therefore he appeal'd to the Pope in that behalf. Nay, the Father himself paid the Respect to his Sons Dignity, That when he at last subdued him and his Rebellious Brothers, (d) he would not suffer him to do him Homage with his other Sons, (though he offered it.) But *Henry* the Son dying in the Life of his Father, *Richard* was then his Eldest Son surviving, and consequently had all the Right which a next Heir could claim. But the wise and wary King had not confidence enough to rely upon this (now so much talk'd of) sacred Right; but though he had already suffered so much from disobedient Sons, was glad to get the Succession confirmed to him in his Life-time. And, the Truth is, there was reason enough that he should do so; for he had all his Children by *Elianor* the Daughter of *William* Duke of *Guyen*, (a) who was before the Wife of *Lewis* the 7th King of *France*, who was still living, and she onely Divorced *causa Adulterii*, which being not a Divorce *à vinculo Matrimonii*, she could not, either by the Canon-Law universally received, or the Laws of *England*, lawfully Marry with any other Husband.

(†) Gervas H. 2. f. 1425.

(d) Brompr. f. 1100.

(a) M. Paris 82.

(b) *Post tum cleri quam populi solemnem & debitam Electionem* R de dicto, f. 647. R. H. par. 2. f. 6. 56.

(c) Flo. Hist. An. 1190.

(d) *Prælatorum Comitum & aliorum Nobilium multitudo infinita*, Bromp. 1281

(e) Mat. Paris, 197 an 1199. *Si aliquis ex stirpe Regis Defuncti aliis præpolleret promptius & promptius in electionem ejus esse consentientium.*

(f) *Charta Moderationis feodi Magni sigilli*, an. 1 Jo. *ex vet. Reg. in Archivis Arch.* Cant. he says, he came to the Crown, *Jure hereditario & mediante tam Cleri quam Populi unanimi Consensu & Favore.*

(g) *Necnon & Legem Christianam, Quam, vanam censuit, relinquens, Legi Mahometis fideliter adhæreret*, Mat. Paris, 243.

(h) Mat. Par. 279. Flo. Hist. anno 1216.

After his Father's Death, *Richard* came to *London*, to which place all the Clergy and Laity were summoned; and (b) after he had been solemnly and duely Elected by the whole Clergy and Laity, (they are the very words of the Historian) and taken the usual Oaths, he was Crowned. And when he undertook the holy War, he (c) declared *Arthur* Son of his next Brother *Geoffery* the Duke of *Britain*, the next Heir to the Crown.

Richard dying without Issue, this *Arthur* ought to have succeeded, and his Sister *Elianor* also had a Title before her Uncle: But *John* the younger Brother, without regarding this divine Right of his Nephew, applies himself to the People for a more sure, though but a humane Title, (d) who being summon'd together, elected him King. And (e) *Hubert* the then Archbishop of *Canterbury*, did at his Coronation, preach a Doctrine, which would have sounded very strangely to the Convocation in 1640. (*viz.*) No one could make any title to the Crown, *nisi ab universitate Regni unanimiter Electus*. And that he who was most worthy ought to be preferred. But (as he goes on) if any one of the Race of the deceased King, was more deserving than others, as *John* the Brother of the deceased King was, the People ought more readily to elect him, than a Stranger to the Royal Blood. This was all the Title King *John* pretended, and this was then sufficient to put by his Nephew. And in his (f) Charters, he does more than once own, that he owed his Crown to the election and favour of his Subjects.

But when King *John* gave over to dissemble his Nature, and went about to change his Religion (g) (for he made offers of that sort to the King of *Morocco*) when he had discovered himself not to be that worthy man which the People supposed him to have been; they remembred whence he derived his Title, and proceeded, upon the same reason that they had chosen him, to make a new Election, (h) chusing *Lewis* Son of *Philip* King of *France*, who was next Heir to the Crown in the right of *Blanch* his Wife, Niece to King *John*, and Daughter to his Sister *Elianor*, both the Children of *Geoffery* Duke of *Britain*, being dead before that time.

When

When King *Philip* heard of their choice, he conſented to ſend his Son, being the rather induced thereto by this reaſon, (*i*) That *John*'s Blood being corrupted by an Attainder of Treaſon in the Life-time of his Brother *Richard*, he was uncapable of taking the Crown by Deſcent, and unworthy to take it any other way.

(*i*) *Volens fratrem ſuum Regem* Ricardum *à Regno angliæ injuſtè privare & inde de proditione accuſatus, & coram eo convictus, Damnatus fuit per judicium in Curia ipſius Regis,* Mat. Weſtm. 275. Mat. Par. 281.

Lewis coming to *London*, was there Elected and Conſtituted King, ſwearing to preſerve the Peoples Laws, and they ſwearing Allegiance to him: But he ſoon forgot his Coronation-Oath, and attempted ſeveral ways to introduce an Arbitrary Government, before he was well Eſtabliſhed in his Throne; which the *Engliſh* aſſoon reſented: And King *John* happening to die very opportunely, The *Earl-Marſhal*, calling together the Great men of the Kingdom, and placing *Henry* the third, then an Infant, in the midſt of them, perſwaded them to make him King, who was altogether innocent of his Fathers faults: (*k*) the Earl of *Glouceſter* ſaid this was contrary to their Oath to *Lewis*: To which the Marſhal replied, that *Lewis* by breaking his Oath had abſolved them from theirs; and that he deſpiſed the *Engliſh* to ſet up the *French*; and that he would be the deſtruction of the Realm. With whoſe Reaſons the whole Aſſembly being convinced, cried out unanimouſly, *Fiat Rex*; and accordingly they Crown'd King *Henry* the third, and ſoon after compelled *Lewis* to renounce all pretences to the Crown.

(*k*) Mat. Weſt. 275. Hen. de Knyght, f. 2426. c. 15. l. 2.

Henry the Third dying, after a long and troubleſome Reign, his Son *Edward* the Firſt, a Prince of great hopes, and whoſe Life anſwered the higheſt expectations, ſucceeded; but whether he was the eldeſt Son of his Father, remains a doubt in Hiſtory. The Houſe of *Lancaſter*, who derived themſelves from his Brother *Edmond*, pretending always that *Edmond* was the Elder, and *Edward* the Younger Brother, and that *Edmond* was put by the Crown, by *common Conſent*, for his Deformity.

Hen. de Knyght, f. 2472. c. 16. l. 2.

After the Death of *Edward* the Firſt, his Son *Edward* the Second ſucceeded, but he degenerating from ſo great a Father, the People grew weary of his Irregular and Arbitrary Government. And a Parliament being by him ſummoned at *Weſtminſter*, as all our Writers ſay, or as *Polydor Virgil* words it, *Principes Convocato Concilio pervenerunt* Londini (which I obſerve, only that we may know what *Polydor* means, when he makes uſe of the expreſſion of *Principes in Concilio Congregati*;) They preſently entred into a conſideration of the miſerable ſtate of the Nation; and a Paper being publickly read, containing many Inſtances of the King's Miſgovernment, all which he had confeſſed, they concluded he was unworthy to Reign any longer, and that he ought to be depoſed; and ſent to him to let him know their Reſolution, and to require him to renounce his Crown and Royal Dignity, otherwiſe they would proceed as they thought good. And they appointed Commiſſioners to go to him in their Names: The *Biſhop* of *Ely* for the *Biſhops*; The *Earl* of *Warren* for the *Earls*; Sir *Henry Fiercy* for the *Barons*; and Sir *William Fruſſel* for the *Commons*, to reſign their Homage up to him: which *Fruſſel* pronounced in all their Names, and formally depriv'd him of all Royal Power; the form of which is particularly ſet down by *Knighton*. The King read this ſad Sentence with extraordinary grief, and many complaints of thoſe evil Counſellers who had ſeduced him; but in the midſt of his Sorrow (*a*) he gave them thanks that they Elected his Son to reign after him. Thus was that glorious Prince *Edward* the Third elected King in his Fathers Life-time; *Et huic Electioni univerſus populus conſenſit.* *Walter* Arch-biſhop of *Canterbury*, who preached the Coronation-Sermon, took this for his Text; *Vox Populi vox Dei.* By this we may ſee that all his Predeceſſors were not of Archbiſhop *Laud*'s mind, but

Thc. Walſing. in Vit. Ed. 2. f. 126.

Pol. Virg. l. 18. f. 352.

Froiſſart 1. vol. c. 14. Fructus Temporum. Par. 7. f. 107. Hen. de Knyght. l. 3. c. 15. f. 2549.

(*a*) *Quod Filium ſuum* Edwardum *poſt ſi Regnaturum elegiſſent,* Knyght 2550.

(*b*) Pol. Virg. 20. f. 295.

but thought there was a Divine Right ſomewhere elſe than where he placed it. Upon the death of *Edward the black Prince*, there was ſome Diſpute whether *John of Gaunt*, the eldeſt ſurviving Son of *Edward* the Third, ſhould Succeed *Jure propinquitatis*, or *Richard* the Son of the *Black Prince*; whereupon *Edward* the Third procured the Parliament to confirm the Succeſſion to *Richard* the *Second*. And afterwards, when *Edward* the *Third* died, (*b*) *Polidorus Virgil* ſays, *Principes Regni habito Concilio apud* Weſtm. (you know what *Polidor* means by *principes*) *Richardum, Edwardi principis Filium, Regem dicunt, by their* common Suffrages.

Juri Hereditario ac etiam voto communi ſingulorum, H. Knyght, l. 5. f. 2630. Rot. Parl. 1 *H.* 4. Pol. Virg. l. 5.

In the 21 year of *Richard*'s Reign, a Parliament being aſſembled at *Weſtminſter*, they drew up, by their common Conſent, a Form whereby he did reſign the Crown, and the name and power of King, diſcharging all his Subjects from all Oaths which they had taken of Allegiance to him, confeſſing himſelf thereby inſufficient for the Government, and ſwearing never to make any pretences to the ſame for the future. All which he Pronounced and Subſcribed, wiſhing, (if it were in his power,) to have *Henry* Duke of *Lancaſter* for his Succeſſour; but ſince it was not, he deſired the Commiſſioners to ſignifie his Deſires to the States of the Realm. The next day all the States of the Realm accepted his Reſignation, and when that was done, they proceeded to read publickly his Coronation-Oath, and all the Breaches of it, that ſo it might appear how juſtly he had deſerved to be depoſed. All which are contained in Thirty three Articles, entred at large in the Rolls of Parliament, (and well deſerve to be read) whereupon the States adjudged that he ſhall be Depos'd, and appoint Commiſſioners *ad Deponendum eundem* Richardum *Regem ab omni Dignitate, Majeſtate & honore Regiis, vice, nomine & authoritate omnium ſtatuum prædictorum, prout in Conſimilibus caſibus de antiqua conſuetudine dicti Regni fuit obſervatum*: which the Biſhop of St. *Aſaph* did, in full Parliament, in their names, and by their directions. The ſame Commiſſioners were alſo to reſign up to him their Homage and Fealty, and intimate the Sentence of Depoſition; which they did accordingly, by the Mouth of Sir *William Thirning*, whoſe words are at large entred upon Record. Then did the Parliament proceed to chooſe *Henry* the Fourth King; And upon this Title onely did he rely, though he mentioned ſome other trifling ones, as that he challenged, it being then void, by Force, as Deſcended to him from King *Henry* the Third.

But this could give him no Title, for 'tis plain that whilſt any of the Iſſue of *Lionel* Duke of *Clarence*, the Third Son of *Henry* the Third, were in being, no right of Blood could Deſcend to him, who derived his Pedigree only from *John* of *Gaunt*, who was but his Fourth Son. And he plainly ſhewed what a good Opinion he had of a Parliamentary Title to the Crown, when in the *7th* year of his Reign, he procured an Act of Parliament to paſs, whereby the Inheritance of the Crown and Realms of *England* and *France* were ſetled upon himſelf for Life, and the Remainder entail'd upon his four Sons by name, and the Iſſue of their Bodies begotten. He was contented that it ſhould be limited no farther, but that after failure of his own Iſſue, it ſhould go according to the general direction of the Law. And he made a Charter ſoon after, whereby he ſetled the Crown purſuant to this Act of Parliament: *Poſt ipſum ſucceſſive hæredibus ſuis de ipſius Corpore legitime procreandis*; which Charter was again confirm'd in Parliament, the 22 *December*, 8 *H.* 4. and the Original Charter is ſtill to be ſeen in the *Cotton* Library.

7 H. 4. cap. 2.

Bucks Hiſt. R. 3. l. 2. f. 50.

Immediately upon the Death of *Henry* the Fourth, a Parliament met at *Weſtminſter*, and there, according to the cuſtom of the Realm, it was deba-

ted who ſhould be King: But all Men had entertained ſo good thoughts of Prince *Henry*, that without ſtaying till the whole Aſſembly had declared him King, divers of them began to ſwear Allegiance to him. A thing ſtrange, and without Preſident, as only occaſioned by the extraordinary Opinion which was generally conceived of him before.

And the certain Title veſted in him by an Act of Parliament.

Princeps Henricus, *facto Patris ſui funere, Concilium Principum apud* Weſtmonaſterium *Convocandum Curat, in quo de Rege Creando, more Majorum, agitabatur. Continuo aliquot Principes ultro in ejus Verba jurare cœperunt, quod Benevolentiæ Officium Nulli, priuſquam Rex renunciatus eſſet, præſtitum conſtat. Adeo* Henricus *ab ineunte ætate ſpem omnibus optimæ Indolis fecit,* Pol. Virg. l. 22. Hiſt. Angl. in Vit. H. 5.

Henry the Fifth dying, and leaving but one Son, who was an Infant of Eight Months old, *Titus Livius* ſays there was ſome doubt whether he ſhould be accepted as King; but as ſoon as his Fathers Funerals were Solemnized, the Eſtates of the Realm of *England*, Aſſembling and Conſulting together, they declared *Henry* the Sixth to be their Sovereign.

Titus Liv. Mſ. in Bibl. Bod. Cott. Record. f. 666.

In the Thirty fifth year of *Henry* the Sixth, a new Limitation of the Crown was made by Parliament, for though the King had a Son then living, yet it was Enacted, That during his own Life onely, *Henry* the Sixth ſhould hold and enjoy the Crown, and that during his Life *Richard* Duke of *York* ſhould be reputed and ſtil'd Heir Apparent to the Crown, and that it ſhould be Treaſon to compaſs his Death; and after the Death, Reſignation, *&c.* of *Henry*, the Crown was limited in Remainder to *Richard* and his Heirs with a Proviſo, that if *Henry*, or any in his behalf, ſhould endeavour to diſannul or fruſtrate this Act, that then *Richard* ſhould have the preſent poſſeſſion of the Crown. And by force of this Act, of Parliament, the ſame Duke of *York*, taking advantage of *Henry*'s Violation of it, did lay claim to, and attempt the recovery of the Kingdom, as alſo did his Son *Edward* after him with better ſucceſs; and *Edward* did openly inſiſt upon this Title in the ſpeech which he made at his Coronation.

Hubington's Hiſt. E. 4. f. 10. Cott. Rec. 670 Fruſtus Temp. part 7. f. 162. Hubingt. E. 4. f. 73.

It was alſo Declared by *Edward*'s firſt Parliament, in the firſt year of his Reign, that *Henry* the Sixth having broken the aforeſaid Concord in many particulars, the Crown was duely devolved to *Edward* the Fourth by vertue thereof.

Afterwards *Edward* the Fourth being driven out of the Kingdom, in the Tenth year of his Reign, the Parliament did again entail the Crown on *Henry* the Sixth, and the Heirs Male of his Body, with the Remainder to *George* Duke of *Clarence*, Brother to *Edward* the Fourth, who was thereby alſo declared Heir to *Richard* Duke of *York*.

'Tis worthy obſervation, that both the Families of *York* and *Lancaſter* claimed a Title by Act of Parliament, and as long as that Title continued, the Iſſue of *Henry* the Fourth had never any Diſturbance from the Pretences of the

the House of *York*, who had undoubtedly the Right of Blood on their side: But as soon as *Richard* Duke of *York* had a Title vested in him, by the Statute made in the Thirty ninth year of *Henry* the Sixth, then he thought it was worth contending for; nor did he and his Son desist till they had driven out *Henry* the Sixth. *Buck's* Hist. *Rich.* 3. lib. 1. fol. 20.

Edward the Fourth did recover the Kingdom again as suddenly as he lost it, and prevail'd with his Parliament to repeal that Law which was made during his Expulsion, and so left the Crown to that young unfortunate Prince *Edward* the Fifth, who held it not long enough to have it put on him with the usual Solemnity; for though he was Proclaimed, he was never Crowned King: For his Uncle *Richard* Duke of *Gloucester* having secured him and his Brother in the *Tower*, did cunningly insinuate the Bastardy of his Nephew, and that *Edward* the Fourth had another Wife living at the time of his Marriage to their Mother, and also at the time of their Birth.

The Report found Credit universally, in so much that the Duke of *Buckingham* coming to him at *Baynards*-Castle, with most of the great Lords and wise men of the Kingdom, and the Mayor and Aldermen of *London*, the Duke did in their Names acquaint him, that they had unanimously thought fit to elect him King, as being Heir to the Royal Blood of *Richard* Duke of *York*, upon whom the Crown was entail'd by the High Authority of Parliament.

'Tis very remarkable, that in the midst of their highest Flatteries and Courtship to him, they tell him only of this great and sure Title by Act of Parliament; although if he had been indeed (what was pretended) the Heir of the House of *York*, his Right by Descent from *Edward* the Third was unquestionable.

Richard (after some feigned Excuses) did at last accept of their Offer and Election; and the Parliament being soon after Assembled, they presented a Bill to this effect: *Please it your Grace to understand the Consideration, Election and Petition under-written, of the Lords Spiritual and Temporal, and of the Commons*, &c. And thereby they Declare the Children of *Edward* the Fourth illegitimate, and that his Brother *George* Duke of *Clarence* was attainted of High-Treason by Parliament, in the 17th year of *Edward* the Fourth's Reign, *by reason whereof all the Issue of the said* George *were and are disabled and barr'd of all Right and Claim, that in any case they might have or challenge by Inheritance to the Crown and Dignity Royal of this Realm, by the ancient Laws and Customs of the same.* After which, considering that none of the uncorrupted lineal Blood of *Richard* Duke of *York* could be found but in his Person, (say they) We have chosen and do choose you our King and Sovereign Lord. Then the Bill proceeds, in reciting that all the Learned in the Laws do approve his Title, and declaring him King as well by Right of Consanguinity and Inheritance, as by lawful Election, and entails the Crown on him and the Heirs of his Body, and declares his Son Heir Apparent. To which the King gave his Royal Assent in these words: *Et idem Dominus Rex, de Assensu dictorum trium Statuum Regni, & Authoritate prædicta, omnia & singula præmissa, in Billa prædicta contenta concedit, & ea pro vero & indubio pronunciat, decernit, & declarat.* *Cott.* Rec. fol. 709. *Buck's Rich.* 3. lib. 1. fol. 22.

But the barbarous Murder of his Nephews did soon beget such an universal Detestation of *Richard* in the minds of the People, that they resolved he should no longer Reign over them; and so, taking hold of a Pretence which *Henry* Duke of *Richmond* set up, they joyn'd with him against *Richard*. Though *Henry's* Title was indeed no more than a meer Pretence; for not only the Right of the *House* of *York*, (as far as Blood could give Right) was before that of the House of *Lancaster*, but also he had no manner of Interest in that Title which the *Lancastrian* Line

Line had, since his Claim was under a Bastard, begotten in Adultery; and besides, his Mother, *Margaret* Countess of *Richmond*, as Heir to whom he pretended he claim'd, was then living. Therefore *Comines*, the most judicious Writer of that Age, and who knew well what was the sence of *Europe* concerning his Title, says plainly, (though he wrote in the time of *Henry* the Seventh) *Qu'il n'avoit Croix, ne Pile, ne nul Droit, (comme Jeo Croy) ala Couronne d' Angleterre.*

Nevertheless, *Henry* having slain *Richard* in *Bosworth*-field, the Crown was there put on his Head by the Lord *Stanley*, with the general Acclamation of the People. But he was wise enough to think his Title to it was not very good, till it was made so by an Act of Parliament, and therefore in the first year of his Reign he procured one to pass in these words:

Bucks Rich. 3. lib. 5. fol. 145.

For the Wealth, Prosperity, and Surety of this Realm of England, *and for avoiding of all Ambiguities and Questions,* (The wisest of our Princes, you see, had no little Opinion of the Authority of a Parliament in this point,) *Be it Ordained,* &c. *That the Inheritance of the Crown of the Realms of* England *and* France, *with all the Prehominences and Dignities Royal to the same appertaining, and the Ligeances to the King belonging, beyond the Seas,* &c. *shall be, rest, remain and abide in the most Royal Person of our Sovereign Lord* Henry *the Seventh, and in the Heirs of his Body lawfully coming perpetually, with the Grace of God, and so to endure, and no other.*

Lord *Bacon* H. 7. f. 11. 12.

Thus did the wisest of our Kings establish himself, and the best of our Historians mentions it as one of the greatest Instances of his Wisdom, That he did not press to have this as a Declaration or Recognition of Ancient Right, but onely as an Establishment of the possession which he then had; nor to have the Remainder limited to any person after the determination of his Estate, but was content with the Settlement upon himself, and the Issue of his own Body, leaving it to the Law, to decide what was to follow upon the failure of such Heirs.

Nor can any thing be more clear, than that *Henry* the *Seventh* depended entirely on this Parliamentary Title, without extending any pretences of his Wives, (who was Heir of the House of *York*,) beyond this Establishment, in as much as the Oaths of Allegiance and other publick Tests and Securities, which were required at that time of the Subjects, were not in general Terms, to the King, his Heirs, and Successors, but only to the King, and the Heirs Male of his Body lawfully begotten. An Instance of this, (without going any further) may be seen amongst the Records Printed at the end of the late History of the Reformation, where Cardinal *Adrian*, when he was promoted by *Henry* the Seventh to the Bishoprick of *Bath* and *Wells*, renounces all Clauses in the Popes Bulls, which may be prejudicial *Domino meo supremo, & Hæredibus suis corpore suo legitime procreatis, Angliæ Regibus*; and he does afterwards swear Allegiance to him in the very same Words, without taking any notice of Remoter Heirs.

Burnet's Hist. of the Reformation, collect. ad lib. 2. fol. 3, 4.

Henry the Eighth, the Heir to this Entail, Succeeded his Father; and though he attempted as much for Arbitrary Power, and used Parliaments with as little respect as any of his Predecessors; Yet even he never doubted of their power in setling the Succession but Valued it much and resorted to it frequently.

In

In the 25th year of his Reign an Act passed, wherein the Parliament say, they were *bounden to provide for the perfect surety of the Succession*; (they did not certainly reckon themselves bound to do a thing that was not in their Power.) And then they take notice of the great Mischiefs and Effusions of Blood which had happened by reason of the doubtfulness of the true Title; and *for the avoiding of all future Questions*, do Enact, *That the Imperial Crown of this Realm shall be to King* Henry *the 8th, and the Heirs of his Body Lawfully begotten on Queen* Anne, *and the Heirs of the Bodies of such several Sons respectively, according to the course of Inheritance; and for default of such Issue, then to the Sons of his Body in like manner; and upon failure of such Issue, then to the Lady* Elizabeth, *and after her to any other Issue in Tail, and then the Remainder is limited to the right Heirs of* Henry the 8th. By the same Statute every Subject at his full Age is oblig'd to take an Oath to defend the Contents of it, and the refusal is made Misprision of Treason. And the next *Parliament*, which was held in the Year following, does particularly Enact an Oath for that purpose. St. 25 *H.* 8. cap. 22. 26 *H.* 8. c. 2.

Some few Years after these Acts were Repealed, and the *Parliament Entailed the Crown* upon the King, and the Heirs of his Body by *Queen Jane*; And Power is given the King for want of Issue of his Body to dispose of the Succession by his Letters Patents, or his last Will. 28 *H.* 8. *Rast.* Crown 4.

It is also made Treason, if any Usurp upon those to whom it is so appointed. Here the *Parliament* do not only use their Power of changing the Succession, but they *Delegate it to another*.

And in the *thirty fifth* Year of this King's Reign, the *Parliament* by another Act take notice of the great and high Trust which the Subjects had in him, in putting into his hands wholly the Order and Declaration of the Succession; Yet the King being then ready to go into *France*, they do Enact, that after his Death, and the Death of *Prince Edward*, without Issue, the Crown should be to the *Lady Mary*, and the *Heirs* of her Body; but both subject to such Conditions as the King should limit by his Letters Patents, or by his last Will, sign'd with his Hand: And if the Lady *Mary* performed not those Conditions, that then the Crown should go to the *Lady* Elizabeth, *as if the Lady* Mary *had been dead without Issue*; and if the Lady *Elizabeth* neglected to perform such Conditions, then it should go to such other person as the King should appoint, in the same manner as before, as if the Lady *Elizabeth* had *been dead without Issue*. And Authority is given to him, by his Letters Patents, or his last Will signed with his own Hand, to appoint the Crown to remain to such person or persons, and for such Estate, and under such Conditions as he should please. 35 *H.* 3. cap. 1.

An Oath also for observing this Statute is appointed, and it is made *Treason* to refuse it, or to disturb or interrupt any Person to whom it is limited by this Act, or should be by the King, pursuant to the power given him thereby.

This is abundantly sufficient to prove, That it was *the universal Opinion of that Age, That the Succession was wholly under the Controul of Parliament*, who not only limited it as they pleased themselves, but *subjected it to Conditions*, and *to the Appointments of others*. But the thing was in its own Nature so evident, that they who had the greatest Reason, and were most concern'd to do it, did never presume to question the power of a Parliament in this point.

Lethington, Secretary of *Scotland*, in a Letter of his, written to Sir *William Cecil*, then Secretary of State here, wherein he argues in behalf of the Title of his Mistress, *Mary* Queen of *Scots*, to succeed Queen *Elizabeth*, against a pretended Disposition made by the last Will of *Henry* the Eighth, to his Neece the Lady *Frances*, Daughter to the French Queen, if his own Issue fail'd, says of these Statutes that gave the King power to dispose of the Crown, That they were against Equity to disinherit a Race of Foreign Princes, and that they were made in an abrupt Time, (as he terms it); but yet he confesses, that since the thing was done, it was now valid and unavoidable, unless some Circumstances did annihilate the Limitation and Disposition made by King *Henry*'s Will. *Burn.* Hist. Reform. Collect. 268.

And so he proceeds to prove that the Power which was given to the King by these Statutes was not pursued, (which it ought to have been most strictly,

and in a preciſe Form); for that the King never ſigned the Will, but that his Name, ſet to it, was forged: Nay, I will venture to ſay that in all the Books which were written to ſupport the Claim of the Scotiſh Queen again King *Henry*'s Will, (though the whole power and wealth of the *Guiſes* were employed to ſet every Wit at work on that deſign) there was never any ſtreſs laid upon it, or ſo much as a pretence that theſe Acts of Parliament were void or ineffectual in themſelves. In that Diſcourſe which was publiſhed by *Philips*, and compoſed by Sir *Anthony Brown*, one of the Juſtices of the Common Pleas, who was (in Judg *Dodderidges* opinion) a Perſon of an incomparable ſharpneſs of Wit, there was all the help that Learning either in Divinity, Civil or Common Laws could give; yet there the Authority of the Parliament in the caſe, and the validity of theſe Statutes, is all along admitted. Indeed they endeavour to put ſome other conſtruction upon the Statutes, but their great Argument is, That King *Henry*, as King, had no power to diſpoſe of the Crown, and therefore theſe Laws only gave him an Authority, and made him only as it were a Commiſſioner, and therefore, as all other Authorities, (eſpecially being in derogation of the courſe of the common Line) was to be ſtrictly followed. They allow that he had ſufficient power to deviſe, and that he might honourably have uſed that Power; but that he ever did exerciſe that Authority, is the thing denied. But it is time for us to go on.

Treatiſe of the the Title of Q. *Mary* to the Succeſſion, *pag.* 38, 39, &c. *lib.* 2. *Dodd.* Engl. Lawyer. *pag.* 8.

Edward the Sixth ſucceeded his Father, and took upon him a power, which ſurely no King ever had, to diſpoſe of his Crown by the Will. But that diſpoſition ſerving to no other purpoſe but to the Ruin of the Lady *Jane Gray*, his Siſter Q. *Mary* firſt, and after Q. *Elizabeth* enjoy'd the Crown according to the limitation of the Statute 35 *H.* 8. *c.* 1. and that one of them had no other Title, muſt be agreed by all: For Q. *Catherine* was alive at the time when *Elizabeth* was born: ſo that if the firſt Marriage was unlawful, Q. *Mary*; and if the ſecond was unlawful, Q. *Elizabeth* muſt neceſſarily have been Illegitimate.

I cannot but obſerve one paſſage to our preſent purpoſe, which I meet with in the time of Q. *Mary*. Sir *Edward Montague*, firſt Lord Chief Juſtice of the Common Pleas, and afterwards of the Kings Bench (one who had the reputation of the ableſt and wiſeſt Lawyer of his Age) being accuſed to have drawn the Will of *Edward* the Sixth, whereby that Queen was to have been diſinherited, and being in great danger upon that account, drew up a State of his own Caſe, and therein ſets forth that the great Reaſon which prevailed with him to obey the King in that particular, and upon which he did ſtill rely for his Indempnity, was, that if Q. *Mary* came to the Crown, ſhe took it by force of the Act of Parliament which did limit it to her in Remainder, ſo that ſhe came in as a Purchaſer, and not in privity of Eſtate to her Brother, and conſequently could not puniſh Treaſons or Offences committed in his time.

More's Reports 827, & 828.

Fuller's Ch. Hiſtory, *lib.* 8. *fol.* 5.

I muſt needs alſo obſerve, that in the Articles made upon the Marriage of Q. *Mary* with *Ph.* of *Spain*, which were confirmed by Act of Parliament, the ſeveral Crowns and Territories of *Philip* are diſtributed part to *Charles* the Infant of *Spain*, part to the Iſſue of the intended Marriage. Whereby it does appear not only what opinion all *Europe* had of the power of an Engliſh Parliament, but alſo that by the conſent of the Eſtates of other Realms, Crowns might be limited and diſpoſed out of the ordinary courſe of Deſcent.

1 *Mar. Parl.* 2. *cap.* 2.

In the firſt year of Q. *Elizabeth*, the Parliament recognize her Title to the Crown, with expreſs relation to the Statute 35 *H.* 8. which inveſts it in her and the Heirs of her Body, and do enact that the Limitation made by that Statute ſhall ſtand and remain as Law for ever, and all Sentences, Judgments and Decrees to the contrary are declared to be void, and appointed to be cancelled. And the ſeveral Offences which are made Treaſon by another Statute in the ſame Year, are all reſtrain'd to the Queen and the Heirs of her Body only. The Parliament intending to extend that new Security no further than her Eſtate in the Crown (which ſhe took by that Parliamentary Limitation) did extend.

1 *Eliz. c.* 3.

1 *Eliz. c.* 5.

In her thirteenth year it was Enacted, That if any perſon claim Title to the Crown for himſelf or any other, during her Life, or ſhall not upon Demand ac-

13 *Eliz. c.* 1. *Raſt.* Treaſon. 27.

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knowledg her Right, *He ſhall be diſabled during his Life to have the Crown in Succeſſion as if he were naturally dead.* And to affirm Right of Succeſſion in ſuch Claimer or Uſurper, (after Proclamation made of ſuch Claim or Uſurpation) is made Treaſon. Nor does the Statute ſtop there, but makes it Treaſon, during the life of the Queen, and forfeiture of all Goods and Chattels after her deceaſe, to affirm that the Queeu, with and by the Authority of Parliament, is not able to make Laws and Statutes of ſufficient force and validity to limit and bind the Crown of this Realm, and the Deſcent, Limitation, Inheritance and Government thereof; or that this or any other Statute made by Parliament, with the Queens Aſſent, is not or ought not to be for ever of ſufficient force to bind and govern all perſons, their Rights and Titles that may claim any *Intereſt* or *Poſſibility* in *or* to *the Crown in Poſſeſſion, Remainder, Inheritance, Succeſſion or otherwiſe.* It were well if ſome raſh Men, who preſume in their Diſcourſes to reſtrain the power of the Parliament (that is, the King, Lords and Commons) in the great buſineſs of the Succeſſion, would be ſo wiſe as to remember this Act, (which is ſtill in force) and the penalty to which they ſubject themſelves by ſuch ſawcy Talk. That incomparable States-man the Lord *Burleigh* had another kind of opinion of the Security which an Act of Parliament could give his Royal Miſtreſs, by making the Scotiſh Queen (the Popiſh Succeſſor of that time) unable and unworthy of the Succeſſion; as appears in a Letter which he wrote about this time to Sir *Francis Walſingham*, then Ambaſſador in *France*.

Compleat Ambaſſad. fol. 289.

In the twenty ſeventh year of Queen *Elizabeth* it was enacted that if any Invaſion was made, or Rebellion, or other thing tending to the hurt of her Perſon by or for, or with the privity of any one who ſhould or might pretend Title to the Crown, and the ſame ſhould be adjudged in ſuch manner as that Law appoints, then every perſon againſt whom ſuch Judgment ſhould be given, ſhould be excluded and diſabled for ever to have or claim the Crown; And that the Subjects of this Realm lawfully might by all forcible and poſſible means, purſue all ſuch Offenders: And their Iſſues aſſenting or privy thereto, are in like manner diſabled and to be purſued. And this Act was made in purſuance of an Aſſociation enter'd into by the People in the vacancy of Parliament out of their great zeal for the preſervationof the life of that excellent Princeſs.

27 *Eliz.* cap. 1.

By virtue of his Statute *Mary* Queen of *Scotland* was afterwards executed, as appears by the Commiſſion for her Trial.

Strangway's Hiſt. of *Mary* Queen of *Scotland*, *fol.* 179.

King *James* her Son, who was a wiſer Prince, and not wholly govern'd by Prieſts, as his Mother was, though he had the ſame pretences that ſhe had, yet never diſputed his Right, or ſet on foot any Title during the Life of the ever Renowned Queen; though ſhe would never ſuffer him to be declared her Succeſſor. He was too wiſe to incur the like diſability as his Mother had done, and to conteſt a Title eſtabliſh'd by Parliament.

After Queen *Elizabeth*'s Death, the Act of Recognition made upon K. *James* his coming to the Crown, doth particularly inſiſt upon that Title, which was raiſed by Act of Parliament to *Henry* the Seventh, and the Heirs of his Body, and that immediately upon the Queen's Deceaſe the Crown deſcended and came to K. *James*; ſo that you ſee the Title of Q. *Elizabeth* is again acknowledged by Parliament: And the entail made by the Statute of 35 *H.* 8. being ſpent upon her Death without Iſſue, K. *James* comes in as next Heir to the old Entail made the firſt year of *Henry* the Seventh.

Thus I have ſet down before you the whole courſe of the Engliſh Succeſſion as plainly, as truly, and as briefly as is poſſible. I ſhall leave every Man to make his own Obſervations on this Hiſtorical Deduction: But this one obſervation I believe all Men muſt make from it, That it hath been the conſtant opinion of all Ages that the Parliament of *England* had an unqueſtionable power to limit, reſtrain and qualify the Succeſſion as they pleaſed, and that in all Ages they have put their power in practice; and that the Hiſtorian had reaſon for ſaying that ſeldom or never the third Heir in a right deſcent enjoy'd the Crown of *England*.

It were as eaſy to ſhew that in all other Kingdoms the next of Blood hath been frequently excluded from the Succeſſion, but the Hiſtory of our own Coun-

Daniel, fol. 5. *in vita, H.* 1.

try is our business; yet I cannot forbear reciting the Speech which Ambassadors sent from the States of *France*, made to *Charles* of *Lorrain*, when they had solemnly rejected him (though he was Brother to *Loys d' Outremes*, and next Heir to the Crown) and had elected *Hugh Capet* for their King. They told him that every one knew that the Succession of the Crown of *France* belonged to him, and not *Hugh Capet*. But yet (say they) the very same Laws which give you this Right of Succession, do judg you also unworthy of the same; for that you have not hitherto endeavoured to frame your Manners according to the Prescript of those Laws, nor according to the usages and customs of your Countrey, but rather have ally'd your self with the German Nation our old Enemies, and have loved their vile and base manners. Wherefore seeing you have forsaken the ancient virtue and sweetness of your Country, we have also forsaken and abandoned you, and have chosen *Hugh Capet* for our King, and put you back, and this without any scruple of Conscience at all, esteeming it better and more just to live under him, enjoying our Ancient Laws, Customs, Priviledges and Liberties, than under you the Heir by Blood in Oppression, strange Customs and Cruelty. For as those who are to make a Voyage at Sea do not much consider whether the Pilot be Owner of the Ship, but whether he be Skilful and Wary: so our care is to have a Prince to govern us gently and happily, (which is the end for which Princes were appointed) and for these ends we judg this Man fitter to be our King.

Gerv. du Hail. lib. 5. an. 988.

Certainly it were a most dangerous thing to have an Opinion prevail, that the King in concurrence with his Parliament should not have power to change the direct order of Succession, though the preservation both of him and his People did depend upon it. For it does directly tend to Anarchy, and makes the Government to want power to defend it self, by making such Alterations as the variety of Accidents in several Ages may make absolutely necessary. There must be a supreme uncontroulable Power lodged somewhere. And the Men who talk at this rate, can hardly find where it is lodged in *England*, if not in the King, Lords and Commons in Parliament.

But when a Man begins to ask a Reason of this Doctrine of theirs, that proximity of Blood does give a Title unchangeable by any humane Laws; the Teachers of it differ exceedingly; some of them tell us of a Divine Patriarchal Right, which Kings as natural Fathers of their People have derived down to them from *Adam*. And this Notion though it be no older than the present Age, has been very frequent in Mens Mouths and Books, and has much pleased of late (as new things use to do.) But they consider not that if this be true, there never can be but one Rightful Monarch in the Universe, that is, He only who is the direct and Lineal Heir of *Adam* then living. And thus these great Patrons of Absolute Power, instead of supporting, do shake the Thrones of all the Princes in the World, since none of them at this day can make out any such Title.

There are others who being desirous to bestow upon the Crown a Complement of the like nature, which they were at the same time obtaining from it, have declared in general, That Monarchy is of Divine Right, That Princes succeed by the Laws of God, That their Title is not subject to any Earthly Cognizance, nor owing to any Consent of the People. But the Consequences of this Opinion are not once consider'd by these Men, that thereby the Property of all Subjects, and the Laws of all Countries are destroy'd together. For no Human Laws or Contracts can bind or restrain a Power divinely instituted. (Or if you like it better in the words of a great Cardinal) A Jurisdiction which is of Divine Right, is not alterable by the Will or Power of Man.

Card. Palav. Hist. Conc. Trid. lib. 18. c. 15.

Besides all Communities which live under another Form of Government, must be guilty of violating this Divine Institution. And perhaps there are few others besides the Great *Turks* Dominions, which are govern'd as they ought to be.

In what a damnable condition are the *Venetians* and the *Netherlands*, who admit no Monarch at all? *Poland* and the *Empire*, who elect their Princes, and will not hear talk of this Divine Right of Succession.

Aragon,

Aragon, where they do not only elect their King, but tell him plainly at his Coronation, that they will depose him if he observes not the Conditions which they require from him, and have a setled Officer, call'd *El Justitia*, for that purpose. Nay, even *France* it self, which 'tis notoriously known, does exclude Women from this Divine Right.

That Government is of Nature, and derived from God, is manifest. Nothing is more natural in Man than the Desire of Society, and without Government Society would be intolerable. But can it be proved from hence that the Government cannot be moulded into several Forms agreeable to the Interest and Dispositions of several Nations, and may not be varied from time to time as occasion requires, by the mutual Consent of the Governours, and of those who are Governed?

And after all pretences of this kind, let any place of Scripture be produced wherein God obliges a People to this or that Form, till they have first obliged themselves to it by some Act of their own?

I do agree that if God by any extraordinary Revelation has ordain'd any sort of Government, or by any immediate Denomination, has conferr'd a Kingdom on any Family, and has directed in what order the Crown shall descend, that all Men are bound to submit to it, and acquiesce in the Divine Will, as soon as it is clearly and evidently made out to them; but they must not be angry if Men expect such an Evidence.

There is a third sort of Men, who tell us this Realm being entirely subdued by the Conqueror, and by him left to descend to his Heirs, none of these Heirs who derive a Title under him, can deprive those who are to succeed of any Right which they ought to have, but must leave the Crown as free to them as they themselves received it from their Ancestors.

I will not here insist upon the Danger that any Prince runs into, who founds his Title in Force, because it will be hard to prove that such an one does not leave as good a Title open for every Man who can make himself strong enough. Nor need I trouble my self to shew, that all Conquest does not put the Conqueror into an Absolute Right. Though it be most evident in the Case of *William* the *First*, who did by his Sword prosecute a Claim of another Nature, and meant only to acquire that Right, and after Conquest rested in it. He pretended to the Crown as the Gift of King *Edward*, and to vindicate that Title, he enter'd with Arms. And though his Relation to the Crown was more remote than that of *Edgar Etheling* (then a Child), yet this Title was better than *Harolds* the present Usurper, who could pretend no Kindred at all, and who had himself sworn to support the Grant to *William*. Nor did he claim a Power by Conquest, (though the Name of *Conqueror* was given him by after-Times, says *Daniel*) but submitted to the Orders of the Kingdom, desirous rather to have his Testamentary Title, than his Sword, to make good his Succession. But I will admit that he made an absolute Conquest, and then these Men will grant that he might himself dispose of this Conquer'd Kingdom. Therefore if he did not leave it to descend in such a manner as they would have it go, nor did institute any such sort of Succession, surely this Argument of theirs will fall to the ground. Now 'tis plain that he never design'd that the Crown should descend; but gave it to his second Son, and thereby gave an early Example *of excluding and pretermitting the Unworthy.*

Lastly, Others object that the Fundamental Laws of the Land, against which no Act of Parliament can be of Force, have so establish'd the Succession, that the Course of it cannot be alter'd. This is surely a new Discovery unknown to our Fore-fathers, as the foregoing History does abundantly prove. But let these Objectors be asked, By what Authority these Imaginary Laws were made? For if an Authority equal to that which made them be still in being, That Authority may certainly repeal them when-ever it pleases to exert it self. If the King alone made them, no doubt but that he may change them too. If they will say they were made by the diffusive Body of the People; they run before they are aware into the Guilt of worshipping that Idol the Multitude, and

make a great ſtep towards placing the Foundation of the Government upon Contract and Conſent. But then let them produce thoſe Laws, or ſome Authentick Memorial of them, before it be exacted from us to believe there were ever any ſuch.

Yes, they will ſay, there is ſuch an Ancient Law acknowledged by all the Judges, and known to every Man, that the Deſcent of the Crown purges all Defects whatſoever. This Maxim, as it is uſually repeated, is in theſe words, and this might be admitted, and yet could not be pertinently apply'd to a Caſe where the Deſcent it ſelf is prevented by a Law. But I will not take advantage of their words, but will conſider the Objection, as it ſtands in that Book where the firſt mention of it was made, and that is in the *Year Book* of *Henry* the *Seventh*, it being ſaid there by the Judges, That the King was a Perſon Able and Diſcharged of any Attainder, *eo facto*, that he took upon him the Government, and to be King.

1 H.7. f. 4. b. Que le Roy ſueſt perſon able & diſcharge d' auſcun attainder eo facto qu'il priſt ſur lui le Reign & eſtre Roy.

Firſt, This was not only an extra-judicial Opinion, but was not pertinent to the Queſtion referr'd to their Conſideration, Whether thoſe who were choſen into the Houſe of Commons, and were at that time attainted of Treaſon, might ſit in Parliament till their Attainders were reverſed; and they all agree that their Attainders ſhould firſt be annulled. But then they proceed to ſay, That there was no neceſſity that the King's Attainder ſhould be Reverſed, for that he might enable himſelf, and needed not any Act of Reverſal. But ſurely they ſaid very wiſely in what they ſaid, for he who had won a Crown in the Field, had gone a great way towards enabling himſelf to wear it. Moſt ſure it is, that if an Act of Reverſal were neceſſary before he could ſit, that then it was impoſſible he ever ſhould ſit there, becauſe no ſuch Act could be made without the Royal Aſſent. *Henry* the *Seventh* was then King *de facto*, and in poſſeſſion of the Throne, and it was ſomewhat of the lateſt to conſider whether he was qualified or not. Certainly it had been ſtrange ſelf-denial in the Judges, and a neglect of themſelves, (which is not uſual with them) to have alledged an Incurable Diſability in the King, from whence they had their Patents and Authority.

In the next place let us conſider what Precedent the Judges cite to juſtify this Opinion of theirs, and how oppoſite it is. *Henry* the Sixth being driven out of the Kingdom by *Edward* the Fourth, The Conqueror call'd a Parliament, and got an Act to paſs, whereby *Henry* was diſabled to hold the Crown. About ten Years after, *Henry* regains the Kingdom, and upon this re-acceſſion to the Crown, (as 'tis uſually call'd) this Act is never repeal'd. But does not every Child ſee the Reaſons of it? For if *Henry* was lawful King, (and before he was not to doubt that) the Act it ſelf was void, in as much as it wanted the Royal Aſſent. So that for him to have procured an Act of Repeal, had been to affirm a Title to the Crown in *Edward*. But without doubt, this Opinion of the Judges, as it is apply'd by the Objectors, was new and unheard of before. We ſee the King of *France* was otherwiſe informed by the learned Men in the time of King *John*, for they thought his Blood corrupted, and him uncapable of taking the Crown by Deſcent, becauſe he was Attainted of Treaſon; which prevailed with that King to ſend over his Son *Lewis*, to put in his Claim in Right of his Wife, who was the next Heir. It alſo ought to be obſerved, that the true Reaſon why the generality of the Nation did ſo long approve the Title of the Houſe of *Lancaſter*, was, becauſe all the Princes of the Houſe of *York* were Attainted of Treaſon, and their Blood corrupted. But as ſoon as ever this Corruption was purged, and *Richard Duke* of *York*, was declared Heir Apparent by Parliament, the People ſoon forſook the *Lancaſtrians*, and ſet the *Houſe* of *York* in the Throne.

Mat. Weſtm. 275. v. ſupra.

Nay, the very learned Men of the ſame Age with theſe Judges, though quite otherwiſe, as will appear beyond contradiction in this famous Caſe which follows. *Richard* the *Third* had two Elder Brothers, *Edward*, and *George* Duke of *Clarence*. *Richard* deſigning to ſecure the Crown to himſelf, had procured the Children of *Edward* to be declared Illegitimate, yet ſtill the Duke of *Clarence* had Iſſue living which might pretend. But obſerve what the Parliament ſay

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(as to this) in the first year of *Richard* the *Third*: "That in the seventeenth "Year of *Edward* the *Fourth*, *George* Duke of *Clarence* was Attainted of Trea- "son, by reason whereof all the Issue of the said *George* was, and is Disabled "and Barred of all Right and Claim, that in any case he or his Issue might have "or challenge by Inheritance to the Crown and Dignity Royal of these Realms. "After that we consider that you be the undoubted Heir, *&c.* And so they "proceed, affirming that all Learned Men in the Laws do approve his Title. *V. sup. & Cott. Rec.* 709.
You see within less than three Years before this Opinion of the Judges, The whole Parliament do not only give their Opinion, but assure you that all Learned Men of that time held clearly that an Attainder did hinder the descent of the Crown, and incapacitate the Person to take it. Nay, what goes yet further in this matter, *Richard* himself, though he was as jealous to secure his Title as ever Tyrant was, and had as good advice to discern the most distant danger: though he was always restless in endeavouring to get the *Earl* of *Richmond* into his Hands, who was a very remote Pretender, and only descended from a Bastard of the House of *Lancaster*, yet he fear'd nothing on this side. He knew how he had wrong'd the Children of his Brother *Edward*, and could not be at ease till he had sent them out of the World, but he let the Children of his Brother *Clarence* live, without apprehending any danger from them, because their Blood was corrupted, and all possibility of Descent taken from them by the Attainder of their Father. It was this only preserved them alive, and not any remorse of Conscience, or any niceness in sending another Nephew out of the World after those whom he had dispatch'd before. This notable Case attended with these Circumstances, will convince every Man either that the Judges intended no such thing by their Opinion as some Men fancy, or else at least that extrajudicial Opinions were then as Apocryphal as they have been since.

Connder, lastly, the unreasonableness of this Doctrine which tends directly to subvert Government, and to put the Life of the King Regnant into the hands of his Successor. The next Heir may commit Rapes, and Murders, and Treasons, burn Cities, or betray Fleets, may conspire against the Life of his Prince, and yet after all, if by *Flight* or *Force* he can save himself, till some of his Accomplices can get the King dispatch'd, in spight of all Laws and Justice he must come to the Crown, and be Innocent.

But when I reflect what sort of Men I am arguing with, and how willingly they use to submit to Authority, I think I shall convince them best by citing the Opinions of two great Men, the one a Cardinal, the other a Lord Chancellor, both of them Martyrs for the Papal Supremacy, I mean Bp *Fisher*, and Sir *Thomas Moor*. And if their Judgments approve the power of Parliaments in the business of the Succession, it cannot but weigh very much on such occasions as this. 'Tis well known how with resolution even to death they refused the Oath of Succession which the Parliament had framed, because therein the Kings Supremacy was avow'd, and therefore they cannot be suspected to dissemble, when at the very same time they declared, that if that of Supremacy was left out, they would willingly Swear an Oath to maintain the Succession of the Crown to the Issue of the Kings present Marriage, as it was then establish'd by Parliament, and gave this reason for it, that this was in the Power of a Parliament to determine; but not who was supreme Head of the Church. Sir *Thomas Moor* went further, and own'd a very strange Opinion of their Power in this point. But he says expressly at the same time, that the Parliament had unquestionable Authority in the ordering of the Succession, and that the People were bound to obey them therein. *Burn. Hist. Ref. lib. 2. fol. 156.*

After the Testimonies of these two great Papists, it will be little to add the Testimony of a Protestant. But yet I will mention what Sir *Walter Rawleigh* (who was no inconsiderable Man, though a Protestant) says in his Incomparable Preface to the History of the World? "Without doubt (says he) Humane "Reason would have judged no otherwise but that *Henry* the *Fourth* had rendred "the Succession as unquestionable by the Act of Parliament which he had pro-

" cured to entail it on his Iſſues, as by his own Act he had left his enemies pow-
" erleſs.

But ſinking Men catch hold of every thing, and when they cannot object to the validity, they will tell us, That ſuch an Act of Parliament to diſinher it, the next Heir is unjuſt and without a ſufficient ground.

I will not at preſent enter into the Diſpute how far the difference of Religion, which will alſo neceſſarily draw on a change in the Government, does juſtify Men in ſeeking to preſent the two deareſt things on earth in an orderly and lawful way. I will not (though I ſafely might) challenge theſe Men to tell me, where ever any ſettled Nation which had Laws of their own, and were not under the immediate force of a Conqueror, did ever admit of a King of another Religion than their own. I will not inſiſt on it that the Crown is not a bare Inheritance, but an Inheritance accompanying an Office of Truſt, and that if a Man's defects render him uncapable of the Truſt, he has alſo forfeited the Inheritance. I need not ſay how far a Nation is to be excuſed for executing Juſtice ſummarily, and without the tedious formalities of Law, when the neceſſity of things requires haſte, and the Party flies from Juſtice, and his Confederates are numerous and daring, and the Princes Life in danger.

But this I will ſay, that if the Parliament have power in this thing, which I need not prove, by ſhewing that the ordinary courſe of Law allows Heirs to be diſinherited of Fines and Recoveries, and that the Parliament in all Ages has frequently done it by making Acts to alter the ſtrongeſt Settlements, where Equity has dictated it, though the Heirs were never in any-wiſe criminal. There, according to Sir *Thomas Moors* Opinion, the People are bound in Conſcience to obey their Laws, and muſt not pretend to enquire whether they were made upon juſts Grounds. For by the ſame Reaſon they may pretend that all other Laws were made without juſt Cauſe, and refuſe obedience to any of them. And ſurely thoſe that ſhould do ſo, would be an excellent *Loyal Party*. God defend this Nation from ſuch Loyalty, as oppoſes it ſelf to the Laws.

FINIS.

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